

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION  
7894OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 12.6.1112 and 12.6.1123 and	)	AMENDMENT AND ADOPTION
adoption of NEW RULE I regarding	)	
falconry	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On March 8, 2012, the Fish, Wildlife and Parks Commission (commission) proposes to amend and adopt the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the commission no later than December 9, 2011, to advise us of the nature of the accommodation that you need. Please contact Coleen Furthmyre, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail cfurthmyre@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

12.6.1112 TAKING, POSSESSING, AND TRANSPORTING RAPTORS FOR FALCONRY (1) remains the same.

(2) A resident falconer may take ~~No more than two raptors may be taken~~ from the wild each calendar year to use in falconry. Nonresident falconers must possess a valid state permit for take of raptors from the wild.

(a) Take of peregrine falcons from the wild is limited to time periods specified by ~~commission~~ annual rules. Take is limited to permittees who have received a peregrine take permit from the department and the conditions associated with that permit.

(b) through (7)(b) remain the same.

AUTH: 87-1-201, 87-5-204, MCA

IMP: 87-5-204, 87-5-206, 87-5-208, MCA

12.6.1123 REPORTING (1) No permittee may take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless the permittee submits a federal form 3-186A (Migratory Bird Acquisition/Disposition Report) or similar state form, completed in accordance with the instructions on the form, ~~to the service and to~~ the department within ~~five~~ ten calendar days of any transaction.

(2) remains the same.

AUTH: 87-5-204, MCA

IMP: 87-5-204, 87-5-208, MCA

4. The new rule proposed to be adopted provides as follows:

NEW RULE I APPLICATION AND PERMITTING FOR NONRESIDENT RAPTOR TAKE (1) Three take permits for each species of raptor allowed to be removed from the wild will be available to nonresidents through a drawing.

(2) Nonresidents may only possess one take permit.

(3) Nonresidents applying for a take permit must submit to the department by March 15:

(a) a completed application;

(b) a \$5 application fee; and

(c) a copy of their valid federal or state falconry license.

(4) Upon notification, successful applicants may purchase a nonresident take permit for \$200. The permit must be purchased by May 1 or will be made available to other applicants.

(5) Permits are valid from June 1 through March 31 and only for the species specified on the permit.

(6) Nonresidents must comply with the reporting requirements of ARM 12.6.1123.

AUTH: 87-5-204, MCA

IMP: 87-5-204, 87-5-208, MCA

Reasonable Necessity: In 2011 the Legislature passed and the Governor signed SB 92 allowing nonresidents to capture raptors from the wild. The commission is proposing amendments to ARM 12.6.1112 and adoption of NEW RULE I to provide a structure for the nonresident take including application requirements, fees, quota, and reporting requirements. The commission is also proposing amending the five-day reporting requirement in ARM 12.6.1123 to ten days to be consistent with the federal reporting requirements.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Bette Moe, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59620-0701; fax 406-444-7894; e-mail [bmoe@mt.gov](mailto:bmoe@mt.gov), and must be received no later than December 30, 2011.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Coleen Furthmyer at the above address no later than 5:00 p.m., December 30, 2011.

7. If the agency receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly

affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 12 persons based on the number of falconers and propagators.

8. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make written request which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Bob Ream

Bob Ream, Chairman

Fish, Wildlife and Parks Commission

/s/ John F. Lynch

John F. Lynch

Rule Reviewer

Certified to the Secretary of State November 14, 2011